

U.S. DISTRICT COURT  
DISTRICT OF VERMONT  
FILED

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF VERMONT 2012 JAN 25 AM 10:50

ROBERT S. MELILLO and ARTHUR  
MAYO, JR., on behalf of themselves and all  
others similarly situated,

Plaintiffs,

v.

BUILDING PRODUCTS OF CANADA  
CORP.,

Defendants.

CLERK

DEPUTY CLERK

Civil Action No.:

1:12-cv-16

**NOTICE OF REMOVAL  
TO FEDERAL COURT**

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF VERMONT**

Pursuant to Title 28 U.S.C. §§ 1453(b) and 1446, Defendant Building Products of Canada Corporation (hereinafter "BPCC") gives notice of removal of an action filed against it in the Superior Court of Vermont, Civil Division, Chittenden Unit, to the United States District Court for the District of Vermont. In support of the removal, BPCC respectfully offers the following:

**I. PRELIMINARY MATTERS**

1. On or about June 9, 2011, plaintiffs commenced this action against defendant BPCC in the Superior Court of Vermont, Civil Division, Chittenden Unit, bearing Docket Number S618-11CNC. See Complaint and Waiver of Service form attached hereto as **Exhibit A.**

2. BPCC was served with the Complaint and Waiver of Service form on or about August 5, 2011.

3. This is a putative product liability class action in which plaintiffs, on behalf of themselves and home and building owners across the United States, allege that organic shingles manufactured by BPCC used for commercial, industrial, institutional and residential roofing applications were defective causing property damage and leading to damages to the class members associated with the removal and replacement of the organic shingles.

## **II. GROUNDS FOR REMOVAL**

4. Plaintiff Robert S. Melillo is a resident of Colchester, Vermont. Plaintiff Arthur Mayo, Jr. is a resident of Sharon, Massachusetts.

5. BPCC is a Canadian corporation, with its corporate headquarters located at 9510 St. Patrick Street, LaSalle, Quebec, H8R 1R9, Canada. BPCC markets and sells organic shingles in Canada and various states in the United States.

6. BPCC is the only defendant that is named in the Complaint.

7. Putative class actions against BPCC arising from its sale of organic shingles have also been filed in the Province of Quebec, Canada and the Province of Ontario, Canada.

8. All of these actions claim property damage requiring roof repair and replacement allegedly on tens of thousands of homes and buildings in the United States and Canada.

9. Over the course of many months, the parties have engaged in a lengthy process of cross-jurisdictional settlement discussions, and have reached a tentative settlement agreement. Based on the settlement negotiations, plaintiffs have estimated that total damages suffered by all United States class members exceed \$5,000,000, and therefore BPCC has now ascertained that this case is one that has become removable. Moreover, Plaintiffs have consented to the removal of this case to this Court.

10. This Court has original jurisdiction over the claims in the Complaint pursuant to the provisions of the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1332(d)(2)(C), as members of the class are citizens of a State and BPCC is a citizen or subject of a foreign state, and the amount in controversy, exclusive of interests and costs, exceeds \$5,000,000.

11. As a result, this entire case is one that may be removed to this Court by virtue of the provisions of 28 U.S.C. §§ 1453(b) and 1332(d).

### **III. TIMELINESS**

12. 28 U.S.C. §1453(b) permits BPCC to remove this putative class action to this Court at this time.

### **IV. VENUE**

13. Plaintiffs' action is pending in the Superior Court of Vermont, Civil Division, Chittenden Unit, which is within this judicial district. *See* 28 U.S.C. § 126. Thus, this Court is the proper venue for removal pursuant to 28 U.S.C. § 1446(a).

### **V. NOTICE**

14. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will be given to Plaintiffs and a copy of the Notice of Removal will be filed with the Clerk of the Superior Court of Vermont, Civil Division, Chittenden Unit.

### **VI. MISCELLANEOUS**


15. A copy of the pleadings served upon BPCC in this action is attached hereto as **Exhibit A**.

**VI. CONCLUSION**

For the foregoing reasons, BPCC respectfully requests that this action, previously pending in the Superior Court of Vermont, Civil Division, Chittenden Unit, be removed to this Court, and that this Court proceed as if this case had been originally initiated in this Court.

DATED: January 25, 2012

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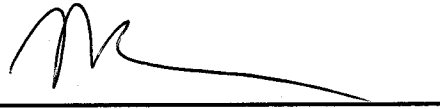
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**CERTIFICATE OF SERVICE**

I hereby certify that on January 25, 2012, I filed the foregoing Notice of Removal to Federal Court with the Clerk of Court, and have served a copy of this filing via mail and/or e-mail to:

Robert S. Behrens, Esq.  
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